

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DAVIS WRIGHT TREMAINE LLP,

Plaintiff,

v.

UNITED STATES CUSTOMS & BORDER  
PROTECTION,

Defendant.

Case No. 2:19-cv-334-RSM

JOINT STATUS REPORT AND ORDER

The parties, United States Customs and Border Protection (“CBP”) and Davis Wright Tremaine LLP (“DWT”), hereby file this Joint Status Report following the Court’s Order, Dkt. 36, 38. Following this Court’s Order on Cross Motions for Summary Judgment, Dkt. 36, CBP consulted with Todd Owen, the Executive Assistant Commissioner, Office of Field Operations for CBP and Owen searched for documents responsive to DWT’s FOIA Requests. CBP provided DWT with a declaration from EAC Owen regarding these efforts and the parties are in the process of discussing these results.

In particular, DWT has asked CBP to provide additional information about the thoroughness of CBP’s consultation with EAC Owen, documents identified during CBP’s consultation with him, the thoroughness of EAC Owen’s search, and to follow up regarding potential documents that are referenced in the documents that CBP produced. DWT also has asked CBP to provide a log with information identifying the documents produced since this

1 Court's Order, Dkt. 36, including whether they were documents that were available to and  
 2 collected from EAC Owen or otherwise, and identifying withheld documents and the reasons for  
 3 the withholding. CBP does not object to providing a log, however, the parties are currently  
 4 discussing what information a log should include. Additionally, DWT has again asked CBP  
 5 reconsider redactions to previously produced documents. The parties request that the Court grant  
 6 them additional time to confer on these points and propose updating the Court on the progress in  
 7 45 days.

8 Additionally, following the Court's Order, and consultation with EAC Owen and DWT,  
 9 CBP has been in the process of collecting emails and other records as a part of the email search  
 10 directed by the Court. At this time, CBP has collected over a million pages of records for review.  
 11 However, because the search terms used relate to matters that CBP deals with on a daily basis, it  
 12 is anticipated that the universe is over inclusive. Following a meet and confer between the  
 13 parties, the parties agree that in an effort to resolve this case, resources are better spent following  
 14 up on DWT's questions regarding the produced documents and discussing CBP's asserted FOIA  
 15 exemptions. The parties agree that CBP does not currently need to undertake the large-scale  
 16 search-term review of emails and other records that CBP has been collecting, and which currently  
 17 totals over a million pages.

18  
 19 DATED: August 14, 2020

DAVIS WRIGHT TREMAINE LLP

20 s/ John McKay

JOHN MCKAY, WSBA #12935

CHRIS MORLEY, WSBA #51918

JORDAN HARRIS, WSBA #55499

920 Fifth Avenue, Suite 3300

Seattle, WA 98101

Telephone: (206) 622-3150

Fax: (206) 757-7700

E-mail: johnmckay@dwt.com

E-mail: chrismorley@dwt.com

26 *Attorneys for Plaintiff*

1 DATED: August 14, 2020

BRIAN T. MORAN  
United States Attorney

2 s/ Katie Fairchild  
3 KATIE FAIRCHILD, WSBA #47712  
4 Assistant United States Attorney  
5 United States Attorney's Office  
6 700 Stewart Street, Suite 5220  
7 Seattle, Washington 98101-1271  
8 Phone: 206-553-4358  
9 Fax: 206-553-4067  
10 Email: katie.fairchild@usdoj.gov

11 *Attorney for Defendant*

**ORDER**

**IT IS SO ORDERED.**

Dated this 17<sup>th</sup> day of August, 2020.



RICARDO S. MARTINEZ  
CHIEF UNITED STATES DISTRICT JUDGE